

# SENATE JOURNAL

## OF THE

# IDAHO LEGISLATURE

SECOND REGULAR SESSION  
SIXTY-FIRST LEGISLATURE

SIXTEENTH LEGISLATIVE DAY  
TUESDAY, JANUARY 24, 2012

Senate Chamber

President Pro Tempore Hill called the Senate to order at 11:15 a.m.

Roll call showed all members present except Senator McKenzie, absent and excused.

Prayer was offered by Chaplain Keith Buhler.

The Pledge of Allegiance was led by Ben Adams, Page.

The Senate advanced to the Third Order of Business.

### Reading and Correction of the Journal

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of January 23, 2012, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifth Order of Business.

### Petitions, Resolutions, and Memorials

Senator McKenzie was recorded present at this order of business.

### SJR 103

#### BY RESOURCES AND ENVIRONMENT COMMITTEE

##### A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO ARTICLE I, OF THE CONSTITUTION OF THE STATE OF IDAHO, BY THE ADDITION OF A NEW SECTION 23, ARTICLE I, TO PROVIDE THAT HUNTING, FISHING AND TRAPPING ARE A VALUED PART OF THE HERITAGE OF THE STATE OF IDAHO AND SHALL FOREVER BE PRESERVED FOR THE PEOPLE, TO PROVIDE THAT THE EXERCISE OF THIS RIGHT BY THE PEOPLE SHALL NOT BE PROHIBITED BUT SHALL BE SUBJECT TO THE LAWS, RULES AND PROCLAMATIONS OF THE STATE AND TO PROVIDE THAT THE RIGHTS SET FORTH DO NOT CREATE A RIGHT TO TRESPASS ON PRIVATE PROPERTY, SHALL NOT AFFECT RIGHTS TO DIVERT, APPROPRIATE AND USE WATER, AND SHALL NOT LEAD TO A DIMINUTION OF OTHER PRIVATE RIGHTS; STATING THE QUESTION TO BE SUBMITTED TO THE ELECTORATE; DIRECTING THE LEGISLATIVE COUNCIL TO PREPARE THE STATEMENTS REQUIRED BY LAW; AND DIRECTING THE SECRETARY

OF STATE TO PUBLISH THE AMENDMENT AND ARGUMENTS AS REQUIRED BY LAW.

### SCR 111

#### BY RESOURCES AND ENVIRONMENT COMMITTEE

##### A CONCURRENT RESOLUTION

APPROVING APPLICATION TO APPROPRIATE WATER FOR MINIMUM LAKE LEVEL RELATING TO COCOLALLA LAKE LOCATED IN BONNER COUNTY.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Idaho Water Resource Board may apply for a permit to appropriate unappropriated waters of any lake to establish a minimum lake level; and

WHEREAS, under the provisions of Section 42-1503, Idaho Code, an application approved by the Idaho Department of Water Resources for a minimum lake level shall not become finally effective until affirmatively acted upon by the Legislature, except that if the Legislature fails to act prior to the end of the regular session to which the application was submitted, the application shall be considered approved; and

WHEREAS, on January 15, 2010, the Idaho Department of Water Resources issued a preliminary order approving an application to establish a minimum lake level as follows:

Source of water:	Cocolalla Lake located in Bonner County at Township 55 North, Range 2 West, B.M.
------------------	--

Purpose for the minimum lake level:	To preserve aesthetics, water quality and recreational uses.
-------------------------------------	--

The minimum lake level:	A water surface elevation of 2,207.77 feet above sea level from January 1 through December 31.
-------------------------	--

Proposed Priority Date:	July 21, 2008.
-------------------------	----------------

WHEREAS, the preliminary order approving the application became final on January 29, 2011.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixty-first Idaho Legislature, the Senate and the House of Representatives concurring therein, that the same is hereby approved subject to the conditions and limitations contained in the preliminary order issued by the Idaho Department of Water Resources on January 15, 2010.

**SJR 103** was introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

**SCR 111** was introduced, read at length, and referred to the Judiciary and Rules Committee for printing.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eighth Order of Business.

### Messages from the Governor

January 20, 2012

The Honorable Brad Little  
President of the Senate  
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that Sara B. Thomas of Meridian, Idaho, was appointed as the State Appellate Public

Defender to serve a term commencing January 12, 2012, and expiring August 1, 2014.

This appointment was made subject to confirmation by the Senate. Notice of appointment is hereby given.

As Always - Idaho, *Esto Perpetua*  
/s/ C.L. "Butch" Otter  
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

The Gubernatorial appointment was referred to the Judiciary and Rules Committee.

The Senate advanced to the Ninth Order of Business.

### **Messages from the House**

January 23, 2012

Dear Mr. President:

I transmit herewith [H 356](#), [H 357](#), [H 358](#), [H 360](#), and [H 362](#), which have passed the House.

ALEXANDER, Chief Clerk

[H 356](#), [H 357](#), [H 358](#), [H 360](#), and [H 362](#) were filed for first reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eleventh Order of Business.

### **Introduction, First Reading, and Reference of Bills, House Petitions, Resolutions, and Memorials**

#### **S 1253**

#### **BY JUDICIARY AND RULES COMMITTEE**

##### **AN ACT**

RELATING TO SERVICE BY PUBLICATION; AMENDING SECTION 5-508, IDAHO CODE, TO ALLOW AN AFFIDAVIT TO BE USED TO SHOW THAT A CAUSE OF ACTION EXISTS AGAINST THE DEFENDANT IN RESPECT TO WHOM SERVICE IS MADE; AND DECLARING AN EMERGENCY.

#### **S 1254**

#### **BY JUDICIARY AND RULES COMMITTEE**

##### **AN ACT**

RELATING TO INJURY TO CHILDREN; REPEALING SECTION 16-1605, IDAHO CODE, RELATING TO THE REPORTING OF ABUSE, ABANDONMENT OR NEGLECT; REPEALING SECTION 16-1606, IDAHO CODE, RELATING TO IMMUNITY; REPEALING SECTION 16-1607, IDAHO CODE, RELATING TO REPORTING IN BAD FAITH AND CIVIL DAMAGES; AMENDING CHAPTER 15, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-1524, IDAHO CODE, TO PROVIDE FOR THE REPORTING OF ABUSE, ABANDONMENT OR NEGLECT, TO DEFINE A TERM, TO PROVIDE EXEMPTIONS AND TO PROVIDE PENALTIES; AMENDING CHAPTER 15, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-1524A, IDAHO CODE, TO PROVIDE IMMUNITY; AMENDING CHAPTER 15, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-1524B, IDAHO CODE, TO PROVIDE CIVIL DAMAGES FOR MAKING CERTAIN REPORTS IN BAD FAITH; AMENDING SECTION 19-401, IDAHO CODE, TO PROVIDE THAT

THERE IS NO LIMITATION OF TIME WITHIN WHICH A PROSECUTION MUST BE COMMENCED FOR THE FAILURE TO REPORT CERTAIN OFFENSES; AMENDING SECTION 19-403, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 6-1903, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AND AMENDING SECTION 54-4407, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES.

#### **S 1255**

#### **BY HEALTH AND WELFARE COMMITTEE**

##### **AN ACT**

RELATING TO RECORDS EXEMPT FROM DISCLOSURE; AMENDING SECTION 9-340B, IDAHO CODE, TO PROVIDE THAT RECORDS OF INVESTIGATIONS PREPARED BY THE DEPARTMENT OF HEALTH AND WELFARE PURSUANT TO ITS STATUTORY RESPONSIBILITIES DEALING WITH THE PROTECTION OF CHILDREN, THE REHABILITATION OF YOUTH, ADOPTIONS AND THE COMMITMENT OF MENTALLY ILL PERSONS SHALL BE EXEMPT FROM DISCLOSURE UNLESS OTHERWISE PROVIDED BY AGENCY RULE; AND DECLARING AN EMERGENCY.

#### **S 1256**

#### **BY RESOURCES AND ENVIRONMENT COMMITTEE**

##### **AN ACT**

RELATING TO FISH AND GAME; AMENDING SECTION 36-408, IDAHO CODE, TO RESTRICT THE USE OF PROCEEDS FROM THE AUCTION OF CERTAIN BIGHORN SHEEP TAGS, TO PROVIDE FOR SPECIAL BIG GAME AUCTION TAGS DESIGNATED AS GOVERNOR'S WILDLIFE PARTNERSHIP TAGS AND TO MAKE TECHNICAL CORRECTIONS.

[S 1253](#), [S 1254](#), [S 1255](#), and [S 1256](#) were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

[H 356](#), [H 357](#), [H 358](#), [H 360](#), and [H 362](#), by Revenue and Taxation Committee, were introduced, read the first time at length, and referred to the Local Government and Taxation Committee.

On request by Senator Davis, granted by unanimous consent, the Senate returned to the Tenth Order of Business.

### **Motions and Resolutions**

The President Pro Tempore announced that [SR 103](#) was before the Senate for final consideration.

Moved by Senator Davis, seconded by Senator Malepeai, that [SR 103](#) be adopted. The question being, "Shall the resolution be adopted?"

Pursuant to Rule 39(C), a roll call vote was requested by Senator Davis.

Senators Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Corder, Darrington, Davis, Fulcher, Goedde, Hammond, Heider, Hill, Johnson, Keough, LeFavour, Lodge, Malepeai, McGee, Malloy (McKague), McKenzie, Mortimer, Nuxoll, Pearce, Schmidt, Siddoway, Smyser, Stennett, Tippets, Toryanski, Vick, Werk, Winder supported the request for a roll call vote.

President Little assumed the Chair.

Roll call resulted as follows:

AYES--Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Corder, Darrington, Davis, Fulcher, Goedde, Hammond, Heider, Hill, Johnson, Keough, LeFavour, Lodge, Malepeai, McGee, Malloy (McKague), McKenzie, Mortimer, Nuxoll, Pearce, Schmidt, Siddoway, Smyser, Stennett, Tippetts, Toryanski, Vick, Werk, Winder. Total - 35.

Whereupon the President declared [SR 103](#) adopted, title was approved, and the resolution ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, President Little appointed a committee consisting of Senator Darrington, Chairman, and Senators Cameron and Werk to escort Jeannine Wood and Rusti Horton into the Senate Chamber and the Well of the Senate to receive the Senate's best wishes in their retirement.

The committee escorted Jeannine Wood and Rusti Horton from the Senate Chamber.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

#### **Miscellaneous Business**

On motion by Senator Davis, seconded by Senator Malepeai, by voice vote, the Senate adjourned at 12:25 p.m. until the hour of 11 a.m., Wednesday, January 25, 2012.

BRAD LITTLE, President

Attest: JENNIFER NOVAK, Secretary